

LEGISLATIVE COUNSEL

Diane F. Boyer-Vine

CHIEF DEPUTIES

Jeffrey A. DeLand
Daniel A. Weitzman

PRINCIPAL DEPUTIES

Michael J. Kersten
Robert G. Miller
John T. Studebaker
Christopher ZirkleJoe Ayala
Lara K. Bierman
Edward Ned Cohen
Alvin D. Gress
Jana T. Harrington
David B. Judson
Michael R. Kelly
Kirk S. Louie
James A. Marsala
Michael B. Salerno
William K. Stark
Jeff Thom
Michael H. Upson
Richard B. Weisberg

DEPUTIES

Amy C. Alley
Paul Antilla
Scott A. Baxter
Robert F. Bony
Ann M. Burastero
Eileen J. Buxton
Cindy M. Cardullo
Sergio E. Carpio
Emilia Cutrer
Ben E. Dale
Byron D. Damiani, Jr.
J. Christopher Dawson
Clinton J. deWitt
Linda B. Dozier
Krista M. Ferns
Sharon R. Fisher
Debra Zidich Gibbons
Shira K. Gilbert
Lisa C. Goldkuhl
Kristen A. Goodwin-Alexander
Dulcinea A. Grantham
Maria Hilakos Hanke
Baldev S. Heir
Thomas R. Heuer
Russell H. Holder
Debra R. Huston
Oksana G. Jaffe
Marian M. Johnston
Valerie R. Jones
Patricia Hart Jorgensen
Lori Ann Joseph
Michael J. Kanotz
Thomas J. Kerbs
Jacqueline R. Kinney
Eve B. Krottinger
L. Erik Lange
Kristina M. Launey
Felicia A. Lee
Diana G. Lim
Romulo I. Lopez
Mira A. Macias
Mariana Marin
Anthony P. Márquez
Francisco A. Martin
Daniel M. Maruccia
JudyAnne McGinley
William E. Modellmog
Abel Muñoz
Michelle E. O'Connor-Ratcliff
Gerardo Partida
Christine N. Paxinos
Robert A. Pratt
Stephanie Ramirez-Ridgeway
Patricia Gates Rhodes
Beth A. Salamon
Amanda H. Saxton
Jessica L. Steele
Michelle L. Stowell
Ellen Sward
Deborah Teitler
Mark Franklin Terry
Bradley N. Webb
Lisa M. Wright
Jack G. Zorman

OFFICE OF LEGISLATIVE COUNSEL

State Capitol, Suite 3021
Sacramento, California 95814

TELEPHONE (916) 341-8000

FACSIMILE (916) 341-8020

INTERNET www.legislativecounsel.ca.govEMAIL administration@legislativecounsel.ca.gov

June 16, 2003

Honorable John Campbell
6027 State Capitol

VEHICLE LICENSE FEE OFFSET - #10134

Dear Mr. Campbell:

You have asked a series of questions regarding the restoration, in whole or in part, of the vehicle license fee offset authorized under Section 10754 of the Revenue and Taxation Code, following a reduction of that offset based on a determination that insufficient moneys were available in the General Fund to fully reimburse local governments for revenue losses resulting from the full amount of the vehicle license fee offset. Specifically, you have asked us to discuss whether an offset restoration, as so described, is required by law and, if so, who is required by law to determine whether that restoration should be implemented. You have also asked when that determination is required to be made, and what procedures, if any, are required to be followed to restore the vehicle license fee offset, either in whole or in part, if a determination is made that the vehicle license fee offset is to be so restored.

By way of background, the Vehicle License Fee Law set forth in Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code¹ (hereafter the VLF Law) establishes, in lieu of an ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2 percent of the market value of that vehicle, as determined or redetermined by the Department of Motor Vehicles in accordance with statute (Art. 1 (commencing with Sec. 10751), Ch. 2, Pt. 5, Div. 2). The vehicle license fee has been determined to be an excise tax, for revenue purposes, that is imposed upon the privilege of operating registered vehicles on the state's highways (*Piazza Properties, Ltd. v. Department of Motor Vehicles* (1977) 71 Cal.App.3d 622, 628).

¹ All further section references are to the Revenue and Taxation Code, unless otherwise specified.

Under the VLF Law, the Department of Motor Vehicles is, on a monthly basis, required to notify the Controller of the amount of moneys collected under that law and, at that same time, deposit those moneys into the State Treasury (subd. (a), Sec. 11001, and subd. (a), Sec. 11001.5), allocating 75.67 percent of the moneys collected to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund (subd. (a), Sec. 11001) and allocating the remaining 24.33 percent to the credit of the Local Revenue Fund (subd. (a), Sec. 11001.5) for expenditure for public service programs (see Art. 1 (commencing with Sec. 17600), Ch. 6, Pt. 5, Div. 9, W.& I.C.).

Subject to various deductions and transfers (see Secs. 11003, 11003.1, 11004, and 11004.5) and the payment of refunds, Section 11005 specifies the allocation of moneys in the Motor Vehicle License Fee Account. Section 11005 first requires the reservation of that amount determined necessary by the Pooled Money Investment Board to meet transfers to the General Fund, ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, in the event that the General Fund is or will be exhausted (subd. (a), Sec. 11005). Next, a deduction is made to the extent necessary to fund the allocation for court operations to the County of Ventura if a specified state block grant funding level is not met (*Ibid.*). Thereafter, 18.75 percent of the remaining balance is allocated first to certain cities and then to counties and cities and counties (subd. (a), Sec. 11001), and the remaining 81.25 percent of that balance is allocated one-half to cities and cities and counties (subd. (c), Sec. 11005) and one-half to counties and cities and counties (subd. (d), Sec. 11005).

In 1998, Section 10754 was added to the Revenue and Taxation Code by Chapter 322 of the Statutes of 1998 (Sec. 2, Ch. 322, Stats. 1998; hereafter Chapter 322) to permanently offset the amount of the vehicle license fee for each subject vehicle by 25 percent (para. (1), subd. (a), Sec. 10754) and to provide for a series of superseding increases in the offset amount (paras. (2) to (5), incl., subd. (a), Sec. 10754, as added by Ch. 322), the operation of which were subject to specified fiscal contingencies (subd. (b), Sec. 10754, as added by Ch. 322). In its current amended form, Section 10754 requires, without contingency, a vehicle license fee offset amount of 67.5 percent for those vehicle license fees having a final due date on or after July 1, 2001 (subpara. (A), para. (3), subd. (a), and para. (3), subd. (b), Sec. 10754; see Sec. 9551.2, Veh. C.).² Specifically, subparagraph (A) of paragraph (3) of subdivision (a) of Section 10754 provides as follows:

“(A) For any initial or original registration of any vehicle, never before registered in this state, for which the final due date for the license fee is on or after January 1 of any calendar year for which this paragraph is operative, and for any renewal of registration with an expiration date on or after January 1 of any calendar year for which this paragraph is operative, the department shall offset

² Since paragraph (3) of subdivision (a) of Section 10754 governs fiscal years beginning on or after July 1, 2001, all further references herein to subdivision (a) of Section 10754 concern only paragraph (3) of subdivision (a) of Section 10754.

the total amount of fees otherwise due at the time of registration of that vehicle by an amount equal to 67-1/2 percent of the amount computed pursuant to Section 10752 or 10752.1, or Section 18115 of the Health and Safety Code."

In order to compensate local governments for the revenue allocation reductions resulting from the vehicle license fee offset, Section 10754 provides for commensurate transfers into both the Motor Vehicle License Fee Account in the Transportation Tax Fund, and the Local Revenue Fund, in accordance with the provisions of Section 11000.³ Specifically, subparagraph (B) of paragraph (3) of subdivision (a) of Section 10754 provides as follows:

"(B) Upon proper payment of license fees to the Department of Motor Vehicles, the amount of the offset for each vehicle shall be transferred into the Motor Vehicle License Fee Account in the Transportation Tax Fund, and into the Local Revenue Fund, pursuant to Section 11000 or Section 11000.1, as applicable."⁴

Section 11000 requires the Department of Motor Vehicles to notify the Controller of the amount of offsets applied under the VLF Law at the time the vehicle license fees are deposited into the accounts as specified under the VLF Law (subd. (b), Sec. 11000), and requires the Controller to transfer from the General Fund to the Motor Vehicle License Fee Account in the Transportation Tax Fund, an amount equal to 75.67 percent of the total amount of vehicle license fee offsets applied (para. (1), subd. (a), Sec. 11000), and to transfer from the General Fund to the Local Revenue Fund an amount equal to 24.33 percent of the total amount of vehicle license fee offsets applied (para. (2), subd. (a), Sec. 11000). The percentage of the vehicle license fee offsets required to be transferred into the Motor Vehicle License Fee Account in the Transportation Tax Fund under paragraph (1) of subdivision (a) of Section 11000 is equal to the percentage of moneys collected under the VLF Law that are required to be transferred into the Motor Vehicle License Fee Account in the Transportation Tax Fund (see subd. (a), Sec. 11001). Likewise, the percentage of the vehicle license fee offsets required to be transferred into the Local Revenue Fund under paragraph (2) of subdivision (a) of Section 11000 is equal to the percentage of moneys collected under the VLF Law that are required to be transferred into the Local Revenue Fund (see subd. (a), Sec. 11001.5).

Notwithstanding the foregoing requirements, if the reimbursement allocations required by Section 11000 cannot be made in their full amount because there are insufficient moneys available in the General Fund to fully fund those allocations, Section 10754 requires that the amount of the vehicle license fee offset applied to each vehicle be reduced in proportion

³ Section 11000 was added to the Revenue and Taxation Code by the same chapter that added Section 10754 (Sec. 6, Ch. 322, Stats. 1998).

⁴ Section 11001.1 was, by its own terms, repealed effective January 1, 2000 (Sec. 7, Ch. 322, Stats. 1998), and is no longer applicable.

to the shortfall in funding for those allocations. Specifically, subparagraph (C) of paragraph (3) of subdivision (a) of Section 10754 provides as follows:

“(C) During any period in which insufficient moneys are available to be transferred from the General Fund to fully fund the offsets required by subparagraph (A), within 90 days of a reduction of funding, the department⁵ shall reduce the amount of each offset computed pursuant to that subparagraph by multiplying that amount by the ratio of the amount of moneys actually available to be transferred from the General Fund to pay for those offsets to the amount of moneys that is necessary to fully fund those offsets.”

For example, in accordance with this requirement, if the amount of General Fund moneys “available” to fund the allocations required by Section 11000 equals only 90 percent of the amount required to fully meet those obligations, the otherwise applicable amount of each individual vehicle license fee offset is required to be multiplied by a ratio of 9/10, and to thereby be proportionately reduced. The vehicle license fee would be increased, of course, by the amount of any reduction in the offset.

The specific circumstances under which “insufficient moneys are available to be transferred from the General Fund” are not defined. However, it is axiomatic that the language of a statute should be construed in accordance with the usual or ordinary meaning of the words used (see *People ex rel. Younger v. Superior Court* (1976) 16 Cal.3d 30, 43; *Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230). The term “available” is defined generally to mean “capable of use for the accomplishment of a purpose” and “immediately utilizable” (Webster's Third New International Dictionary (1986), at p. 150). In light of this definition, it is our view that, under existing law, General Fund moneys are “available” for allocation, as provided by Section 11000, if those moneys remain in the General Fund⁶ and are not legally encumbered for another purpose.

Your initial inquiry is whether Section 10754 requires or authorizes a restoration, in whole or in part, of the vehicle license fee offset following a reduction of that offset based on a determination that insufficient moneys are available in the General Fund to fully reimburse local governments for revenue losses resulting from the full amount of the vehicle license fee offset.

⁵ Paragraph (1) of subdivision (c) of Section 10754 provides, in pertinent part, that for purposes of Section 10754 “department” means the Department of Motor Vehicles with respect to vehicle license fee offsets for vehicles subject to registration, and the Department of Housing and Community Development with respect to vehicle license fee offsets for manufactured homes, mobilehomes, and commercial coaches.

⁶ The General Fund is statutorily defined, under Section 16300 of the Government Code, to mean money received in the State Treasury and not required by law to be credited to any other fund.

Subparagraph (C) of paragraph (3) of subdivision (a) of Section 10754 (hereafter subparagraph (C)) does not expressly require or authorize the restoration of the vehicle license fee offset, either in whole or in part, after a reduction of that offset based on a determination that insufficient moneys were available to reimburse local governments for the revenue losses resulting from the full amount of the vehicle license fee offset. However, in light of the fact that this subparagraph specifically requires the vehicle license fee offset to be proportionately reduced "during any period in which insufficient moneys are available to be transferred from the General Fund to fully fund the offsets," we are of the view that the Legislature intended a reduction in the offset authorized by subparagraph (A) of paragraph (3) of subdivision (a) of Section 10754 (hereafter subparagraph (A)) to remain in effect only for the period during which the insufficiency persists. This conclusion is consistent with the tenet of statutory construction that significance is to be given to every word, avoiding any construction that would make some words surplusage (*Lambert Steel Co. v. Heller Financial, Inc.* (1993) 16 Cal.App.4th 1034, 1040).

As a corollary to this conclusion, we also think that the Legislature also intended that the vehicle license fee offsets be proportionately restored, in whole or in part, during any subsequent period during which a greater amount of moneys becomes available to be transferred from the General Fund to fund the reimbursement of revenue losses from those restored vehicle license fee offsets. This construction is supported by the absence of any provision of law that would, either expressly or by implication, repeal or permanently reduce the amount of the vehicle license fee offset once a determination has been made that there are insufficient moneys available to be transferred from the General Fund to fully fund the vehicle license fee offsets. This interpretation of subparagraph (C) is consistent with the principles of statutory construction that a statute is to be read in light of its historical background, the evident objective of the Legislature (*State Compensation Ins. Fund v. Worker's Comp. Appeals Bd.* (1979) 88 Cal.App.3d 43, 53), and in a manner that effectuates the purpose of that law (see *Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1226).

Accordingly, in our opinion, the apparent intent of the Legislature in including subparagraph (C) in paragraph (3) of subdivision (a) of Section 10754 was to require that the amount of the vehicle license fee offset be adjusted in accordance with changes in the amount of moneys available in the General Fund to reimburse local governments for the revenue losses resulting from the offset. Thus, it is our view that Section 10754 requires the restoration, in whole or in part, of the vehicle license fee offset if a determination is made that there are sufficient revenues in the General Fund to reimburse local governments for the revenue losses that would occur from that restoration, under the same principles and in the same manner as it requires the reduction of the vehicle license fee offset, in whole or in part, if a determination is made that there are insufficient revenues in the General Fund to reimburse local governments for the revenue losses that result from the vehicle license fee offset.

Given our conclusion that Section 10754 requires the restoration of the vehicle license fee offset, in whole or in part, if a determination is made that there are sufficient moneys available in the General Fund to reimburse local governments for the revenue losses that would occur as a result of that restoration, the second question to be considered is which person or

state agency is required by law to make that determination. In order to respond to this question, it is helpful to determine first which person or state agency is responsible for making the initial determination, with respect to the reduction of the vehicle license fee offset, of whether there are insufficient moneys available to be transferred from the General Fund to fully reimburse local governments for revenue losses resulting from that offset.

As explained above, subparagraph (C) requires, in the event there are insufficient moneys available in the General Fund for the Controller to fully reimburse local governments for revenue losses resulting from the vehicle license fee offset, that a reduction in the amount of the vehicle license fee offset be applied to each vehicle in proportion to the shortfall in funding. However, the express terms of Section 10754 and Section 11000 are both silent as to the party or agency responsible for making the determination of whether there are insufficient moneys available in the General Fund to make this reimbursement.

Under the principles of statutory construction, where the plain meaning of the words of a statute is not dispositive, the statute's legislative history and the wider historical circumstances of its enactment may be considered in ascertaining legislative intent (*International Medication Systems, Inc. v. Assessment Appeals Bd.* (1997) 57 Cal.App.4th 761, 765). Moreover, statutes must be construed so as to give a reasonable and commonsense construction that is consistent with the apparent purpose and intention of the lawmakers, that is practical rather than technical, and that leads to wise policy rather than mischief or absurdity (*People v. Turner* (1993) 15 Cal.App.4th 1690, 1696).

In light of these principles, it is our view that, under a reasonable and commonsense construction of the apparent intent of the relevant existing law, the Controller, who is statutorily charged with the responsibility for making the reimbursement allocations to local governments, is the party who would be required to determine whether there are insufficient moneys available in the General Fund to fully reimburse local governments for the revenue losses resulting from the vehicle license fee offset. This construction is supported by the fact that the Controller, as part of his or her statutory duties, also is required to superintend the fiscal concerns of the state (Sec. 12140, Gov. C.) by accounting for all expenditures as scheduled in the Budget Act (subd. (a), Sec. 12412, Gov. C.), preparing a monthly report comparing the actual revenues with the estimated revenues (subd. (d), Sec. 12412, Gov. C.), and preparing a quarterly report on the General Fund comparing state revenues and expenditures for that quarter with the Budget Act as well as any other expenditures authorized pursuant to statute (Sec. 12416.1, Gov. C.). In addition, on the first business day of each month, the Controller is required to furnish the Department of Finance with a statement of the amount of money in each fund in the Treasury and the total amount as it appears on the books of his or her office (Sec. 12466, Gov. C.) With respect to the General Fund, the Controller is specifically charged with the responsibility of notifying the Governor, among others, when the General Fund in the Treasury is or will be exhausted (subd. (a), Sec. 16310, Gov. C.).

Accordingly, in view of the fact that the Controller is the party that is statutorily required to superintend the fiscal concerns of the state as well as the party that is statutorily required to transfer moneys from the General Fund to specified funds to reimburse local governments for revenue losses resulting from the vehicle license fee offset, it logically follows,

in our opinion, that the Controller is the party responsible, under current law, for making the determination as to whether there are insufficient moneys available to be transferred from the General Fund to fully reimburse local governments for revenue losses resulting from the offset authorized under subparagraph (A).

Similarly, in accordance with the same principles and duties, it is our further view that, following the reduction, in whole or in part, of the vehicle license fee offset under subparagraph (C), the Controller is necessarily the party responsible, under current law, for making the determination of whether subsequently there are sufficient moneys available in the General Fund to reimburse local governments for the revenue losses that would occur as a result of the restoration, in whole or in part, of the vehicle license fee offset.

The third question asked is when is a determination required to be made as to whether there are sufficient revenues available in the General Fund to reimburse local governments for the revenue losses that would occur as a result of a restoration, in whole or in part, of the vehicle license fee offset under circumstances where that offset was previously reduced, in whole or in part, pursuant to subparagraph (C). In order to respond to this inquiry, we must first identify the time at which the Controller is required by law, for purposes of reducing the vehicle license fee offset, to determine whether there are insufficient moneys available to be transferred from the General Fund to fully reimburse local governments for revenue losses resulting from the offset.

The determination of whether insufficient General Fund moneys are "available," to be transferred from the General Fund to fully reimburse local governments for revenue losses resulting from the vehicle license fee offset is, in our view, a factual determination that is required to be made each time at which the Controller is required to transfer moneys from the General Fund to reimburse local governments for the losses associated with the vehicle license fee offset. This plain-meaning construction is supported by the absence in subparagraph (C), or any provision in the VLF Law, of any language requiring either the exercise of judgment or the use of any additional criteria with respect to the timing of that determination. In contrast, there are other statutes that apply more detailed fiscal criteria to determine the time and manner in which a tax is to be adjusted, expressly setting forth that period for which, and the manner in which, the criteria are to be applied (see Secs. 6051.4 and 6051.45, regarding sales taxes, and Secs. 6201.4 and 6201.45, regarding use taxes).

Consequently, it is our opinion that, under existing law, a court would construe the obligation to make a determination whether there are "insufficient moneys available," as used in subparagraph (C), in accordance with the plain meaning of that term (see *Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 547), as requiring a determination of the amount of unencumbered moneys available in the General Fund as of each point in time at which the Controller is required under Section 11000 to make the requisite transfers from the General Fund.

In light of this conclusion, it must next be determined when the Controller is required to make the transfers pursuant to subdivision (a) of Section 11000 from the General Fund to reimburse local governments for the revenue losses resulting from the vehicle license fee offset. As previously explained, subdivision (b) of Section 11000 provides that the Department of Motor Vehicles is required to notify the Controller of the total amount of

offsets applied under the VLF Law “concurrently with the department’s transfer of vehicle license fees as required by law,” but Section 11000 is silent as to the specific point in time at which the Controller is required to make these requisite transfers from the General Fund. Subparagraph (B) of paragraph (3) of subdivision (a) of Section 10754 (hereafter subparagraph (B)), in regard to the Controller’s obligation to transfer moneys from the General Fund to fully reimburse local governments for the revenue losses resulting from the vehicle license fee offset, provides that the reimbursements are to be transferred “[u]pon proper payment of license fees to the Department of Motor Vehicles.” However, there is nothing in Section 10754, Section 11000, or any other provision of the VLF Law, that indicates when “proper payment of license fees to the Department of Motor Vehicles” has occurred. The term “payment” is generally defined to mean “the act of paying or giving compensation” (Webster’s Third International Dictionary (1986), at p. 1659). Thus, under a literal construction of subparagraph (B), the transfers from the General Fund to fully reimburse local governments for revenue losses resulting from the vehicle license fee offset would be required to be made at the time the vehicle license fee is paid by the feepayer, an event that cannot be readily ascertained until the Department of Motor Vehicles has received the payment made by the feepayer after the “act of paying” has occurred.

It is a principle of statutory interpretation that a literal reading of a statute should be disregarded to avoid absurd results (*Silver v. Brown* (1977) 63 Cal.2d 841, 845) and that, under those circumstances, a statute should be interpreted with reference to the system of law of which it is a part (*People v. Comingore* (1977) 20 Cal.3d 142, 147) so as to harmonize its various parts within the legislative purpose of the statute as a whole (*Wells v. Marina City Properties, Inc.* (1981) 29 Cal.3d 781, 788), as well as with other laws relating to the same subject (*Isobe v. Unemployment Ins. Appeals Bd.* (1974) 12 Cal.3d 584, 590-591). In accordance with these principles, it is appropriate to consider the provisions of the VLF Law governing the transfers of vehicle license fees collected by the Department of Motor Vehicles to determine when the Controller is required, in accordance with Section 11000, to transfer moneys from the General Fund to fully reimburse local governments for the revenue losses resulting from the vehicle license fee offset.

In this regard, subdivision (a) of Section 11001 and Section 11001.5, as described above, both require the Department of Motor Vehicles to transfer vehicle license fees it receives into identified accounts in the State Treasury, in the percentages specified, at the same time that the Department of Motor Vehicles makes its required monthly report to the Controller of the amount of vehicle license fees collected under the VLF Law. Furthermore, subdivision (b) of Section 11000 requires the Department of Motor Vehicle to notify the Controller of the total amount of vehicle license fee offsets applied concurrent with that department’s transfer for deposit of vehicle license fee revenues. In light of the monthly schedule of notifications and transfers established by these statutes, we think that subparagraph (B) would be construed to similarly require the Controller to “transfer the amount of the offset for each vehicle” after being notified by the Department of Motor Vehicles as to the amount of vehicle license offsets applied under the VLF law, which, in accordance with subdivision (b) of Section 11000, occurs

at the same point in time when the Department of Motor Vehicles is required to make monthly transfers of vehicle license fees into the specified accounts of the State Treasury.

Accordingly, we conclude that the Controller is required to make the transfers from the General Fund required under subdivision (a) of Section 11000 and subparagraph (B) at the point in time when the Controller receives the monthly report from the Department of Motor Vehicles of "the total amount of offsets applied," which, under subdivision (b) of Section 11000, occurs at the same point in time at which the Department of Motor Vehicles makes the requisite monthly transfers of vehicle license fees in accordance with Sections 11001 and 11001.5. Consequently, we are of the view that the Controller is required to make a factual determination of whether there are insufficient moneys available to be transferred from the General Fund to fully reimburse local governments for revenue losses resulting from the vehicle license fee offset each month when the Controller receives the Department of Motor Vehicles' monthly report of the total amount of offsets applied.

It is also our view the same reasoning applies with respect to the time at which the Controller is required to determine whether there are sufficient revenues available in the General Fund to reimburse local governments for the revenue losses that would occur as a result of the restoration, in whole or in part, of the vehicle license fee offset under circumstances where that offset was previously reduced, in whole or in part, pursuant to subparagraph (C). Accordingly, under circumstances in which the vehicle license fee offset has been partially reduced pursuant to subparagraph (C), it is our opinion that the Controller is required to make a factual determination of whether there are sufficient moneys available in the General Fund to fully or partially restore the vehicle license fee offset authorized by subparagraph (A) each month when the Controller receives the Department of Motor Vehicles' monthly report of the total amount of offsets applied.

We recognize, however, that under circumstances in which the vehicle license fee offset has been reduced to zero pursuant to subparagraph (C), the Controller will not receive a monthly report from the Department of Motor Vehicles of the amount of offsets applied. Nevertheless, under circumstances in which the vehicle license fee offset has previously been reduced to zero, we are of the opinion that the Controller is required to make a factual determination of whether there are sufficient moneys available in the General Fund to restore, in whole or in part, the vehicle license fee offset authorized by subparagraph (A) each month when the Controller receives the requisite notification from Department of Motor Vehicles of the amount of vehicle license fees collected under the VLF Law, which as explained above, is the same point in time at which the Department of Motor Vehicles is otherwise required to report to the Controller the total amount of offsets applied.

The last question asked is what procedures, if any, are required to be followed to restore the vehicle license fee offset, in whole or in part, if a determination is made that there are sufficient moneys in the General Fund to reimburse local governments for the revenue reductions that would result from the restoration, in whole or in part, of the vehicle license fee offset. In order to respond to this inquiry, it is again helpful to examine first the procedures that current law requires to be followed to reduce the vehicle license fee offset under

circumstances in which a determination is made that there are insufficient moneys in the General Fund to fully reimburse local governments for the vehicle license fee offset.

It is our view that subparagraph (C), as set forth and otherwise discussed above, expressly requires the Department of Motor Vehicles and the Department of Housing and Development to proportionately reduce the amount of the vehicle license fee offset required by subparagraph (A) within 90 days of the determination that there are insufficient moneys available to be transferred from the General Fund to fully reimburse local governments for revenue losses resulting from that offset.

This plain-meaning construction of subparagraph (C) is supported by the absence of language in Section 10754, Section 11000, or any other provision of the VLF Law that, either expressly or by implication, requires an intervening action by the Legislature prior to, or in conjunction with, the requisite reduction of the vehicle license fee offset. Further, there was no indication at the time Section 10754 was added to the VLF Law that the implementation of the offset reduction under subparagraph (C) was intended to be contingent upon any other provision of law. In determining the intent of the Legislature, the words of a statute are to be interpreted in the sense in which they would have been understood at the time of enactment (*People v. Cruz* (1996) 13 Cal.4th 764, 775) and, absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive (*Kilroy v. Superior Court* (1997) 54 Cal. App.4th 793, 801).

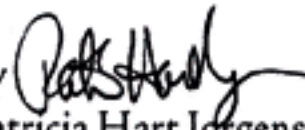
In accordance with these principles, a court, in our view, would construe subparagraph (C) as requiring the Department of Motor Vehicles and the Department of Housing and Development to proportionately reduce the vehicle license fee offset within 90 days of the determination that there are insufficient moneys in the General Fund to fully reimburse local governments for the revenue reductions associated with the vehicle license fee offset. Thus, in accordance with the same principles, if after the vehicle license fee offset has been reduced under subparagraph (C) it is determined that there are sufficient moneys in the General Fund to reimburse local governments for the revenue losses that would result from the restoration, in whole or in part, of the vehicle license fee offset, it is also our view that subparagraph (C) should be construed to require the Department of Motor Vehicles and the Department of Housing and Development to proportionately restore the vehicle license fee offset within 90 days of that determination.

In summary, it is our opinion that Section 10754 requires a restoration, in whole or in part, of the vehicle license fee offset following a reduction of that offset based on a determination that insufficient moneys are available in the General Fund to fully reimburse local governments for revenue losses resulting from the full amount of the vehicle license fee offset, if the Controller makes a later determination that there are sufficient revenues available in the General Fund to fully reimburse local governments for revenue losses resulting from that restoration. In the case of a partial reduction of the vehicle license fee offset, the Controller is required to make a factual determination of whether there are sufficient moneys available in the General Fund to fully or partially restore the vehicle license fee offset, each month when the Controller receives the Department of Motor Vehicles' monthly report of the total amount of vehicle license offsets applied. In the case of a total reduction of the vehicle license fee offset, we

conclude that the Controller is required to make that factual determination each month when the Controller receives the Department of Motor Vehicles' monthly report of the total amount of vehicle license fees collected under the Vehicle License Fee Law. In the event the Controller determines that there are sufficient moneys available to reimburse local governments for the revenue losses resulting from the restoration, in whole or in part, of the vehicle license fee offset, the Department of Motor Vehicles and the Department of Housing and Development are required to proportionately restore, in whole or in part, the vehicle license fee offset within 90 days of that determination.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By 
Patricia Hart Jorgensen
Deputy Legislative Counsel

PHJ:mfo